

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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|---------------------------------|---|-------------------------|
| DAVID E. HALLMAN, | : | |
| Plaintiff, | : | |
| v. | : | Civil Action No. 06-59J |
| CATHERINE C. MCVEY, CHAIR, | : | |
| PENNSYLVANIA BOARD OF PROBATION | : | |
| AND PAROLE, CHARLES ERICKSON, | : | |
| SUPERINTENDENT, S.C.I. RETREAT, | : | |
| JOHN CIOCCA, UNIT MANAGER, and | : | |
| TOM HUGHES, COUNSELOR, | : | |
| Defendants | : | |

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

On September 11, 2006, the Magistrate Judge filed a Report and Recommendation, docket no. 2, recommending pursuant to 28 U.S.C. § 1915A that the complaint be dismissed for failure to state a claim, with the exception of a retaliation claim that is a relatively minor issue compared to the plaintiff's Fifth Amendment claim.

The plaintiff was notified that pursuant to 28 U.S.C. § 636(b)(1), he had ten days to serve and file written objections to the Report and Recommendation. Plaintiff filed timely objections, docket no. 6, which I have reviewed de novo and reject.

After de novo review of the record of this matter together with the Report and Recommendation, and the objections thereto, the following order is entered:

AND NOW, this 26th day of September, 2006, it is

ORDERED that the plaintiff's Fifth Amendment claim is dismissed for failure to state a claim. The Report and Recommendation is adopted as the opinion of the Court, except that the plaintiff's request for certification of this matter for interlocutory appeal is denied. The retaliation claim can be served when plaintiff returns the authorization for the payment of the filing fee.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to:

Renee Pietropaolo, Esquire
1450 Liberty Center
1001 Liberty Avenue
Pittsburgh, PA 1522-3714

Mary L. Friedline, Esquire
6th Floor Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219

William A. Shaw, Jr., Esquire
Office of the District Attorney
230 E. Market Street
Clearfield, PA 16830